

Message Text

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ACTION EUR-12

INFO OCT-01 AF-10 ARA-10 IO-13 ISO-00 AID-05 CEA-01
CIAE-00 COME-00 EB-07 FRB-01 INR-07 NSAE-00
EPG-02 SP-02 STR-04 TRSE-00 LAB-04 SIL-01 OMB-01
AGRE-00 L-03 ITC-01 /085 W
-----061202Z 021742 /47

R 061636Z MAY 77
FM USMISSION EC BRUSSELS
TO SECSTATE WASHDC 3717
INFO ALL EC CAPITALS
USDEL MTN GENEVA
USMISSION GENEVA
USMISSION OECD PARIS
AMEMBASSY ANTANANARIVO
AMEMBASSY LILONGWE
AMEMBASSY BRIDGETOWN
AMEMBASSY DAR ES SALAAM
AMEMBASSY GEORGETOWN
AMEMBASSY KINGSTON
AMEMBASSY MBABANE
AMEMBASSY NAIROBI
AMEMBASSY PORT LOUIS
AMEMBASSY PORT OF SPAIN
AMEMBASSY SUVA

UNCLAS EC BRUSSELS 04563

PASS AGRICULTURE ELECTRONICALLY

E.O. 11652: N/A
TAGS: EAGR, EEC
SUBJECT: EC-ACP SUGAR

REF: (A) EC A-72 OF 2/20/75, (B) EC BRUSSELS 4235, (C) SUVA 521,
(D) EC BRUSSELS 10294 OF 10/19/76

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1. SUMMARY: COMMISSION SOURCES FEEL THAT THERE WILL BE AGREE-
MENT ON THE 1977/78 EC GUARANTEED PRICE FOR ACP SUGAR SHORTLY.
WE HAVE MORE INFORMATION ON EC PLANS REGARDING ACP SHORTFALLS
IN THEIR QUOTAS LAST YEAR. END SUMMARY.

2. LAST WEEK'S EC-ACP NEGOTIATING ROUND TO FIX THE 1977/78
EC GUARANTEED PRICE FOR ACP SUGAR PRODUCED NO FINAL SETTLE-

MENT. GIVEN THE NARROW DIFFERENCE BETWEEN THE EC OFFER AND ACP REQUESTED PRICE LEVEL, OUR COMMISSION CONTACTS ARE FAIRLY CONFIDENT THAT THE ISSUE WILL BE SETTLED AT THE NEXT EC-ACP SESSION SCHEDULED FOR MAY 12. THE PRESS REPORTS THAT THE EC HAS OFFERED A GUARANTEED PRICE OF 27/25 U.A./100 KG. RAW SUGAR WHILE THE ACP HAS ASKED FOR 27.90 U.A./100 KG. (NOTE THAT THIS PRICE DIFFERENCE REPRESENTS A DIFFERENCE OF AROUND 8 MILLION U.A. IN COSTS FOR THE EC PURCHASE COMMITMENT).

3. UNDER THE TERMS OF THE SUGAR PROTOCOL OF THE LOME CONVENTION (REF A), THE COMMUNITY IS COMMITTED TO IMPORT AROUND 1.3 MILLION M.T. WHITE SUGAR BASIS OF ACP SUGAR ANNUALLY AT A "GUARANTEED PRICE" WHICH IS NEGOTIATED EVERY YEAR ON THE BASIS OF THE INTERNAL EC SUPPORT PRICES FIXED FOR COMMUNITY PRODUCERS. EACH YEAR OF COURSE FINDS THE COMMUNITY ON THE LOW SIDE AND ACP COUNTRIES ON THE HIGH SIDE OF DEFINING A GUARANTEED PRICE FOR ACP SUGAR WITHIN EC SUPPORT PRICE LEVELS.

4. FOR 1977/78 THE EC INTERVENTION PRICE FOR EC RAW SUGAR HAS BEEN FIXED AT 27.25 U.A./100 KG; HOWEVER, EC PRODUCERS ARE SUBJECT TO A PRODUCTION LEVY ON THEIR SUPPLEMENTARY ("") QUOTA TO DEFRAY THE COSTS OF SURPLUS DISPOSAL (REF. B). THE EX EXPECTS IT WILL HAVE A SUGAR SURPLUS OF 1.5 - 3 MILLION M.T. THIS YEAR.

5. THE EC GUARANTEED PRICE FOR ACP SUGAR SERVES AS A GUIDE FOR COMMERCIAL TRANSACTIONS SINCE IT REPRESENTS THE PRICE AT WHICH EC INTERVENTION AGENCIES WILL BUY ACP SUGAR. AS FAR AS THE COMMISSION KNOWS, NO ACP SUGAR HAS EVER BEEN UNCLASSIFIED

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BOUGHT INTO INTERVENTION. VIRTUALLY ALL OF THE ACP SUGAR IS BOUGHT BY UK REFINERS FOR THE UK MARKET.

6. THE PRESS AND REF. C HAVE REPORTED THAT THE COMMUNITY WILL "REINSTATE" THE QUOTA AMOUNTS REDUCED BY THE COMMISSION FOR THOSE ACP COUNTRIES WHOSE SHORTFALLS WERE NOT DUE TO FORCE MAJEURE. HOWEVER, ACTUAL EC INTENTIONS ARE A LITTLE MORE COMPLICATED THAN THEIR PRESS STATEMENTS AT FIJI WOULD INDICATE. FIRST OF ALL, COMMISSION LAWYERS ARE OF THE OPINION THAT IT IS NOT POSSIBLE FOR A SIGNATORY TO CHANGE UNILATERALLY THE TERMS OF AN INTERNATIONAL TREATY. THIS MEANS THAT THEY DO NOT FEEL THAT THE COMMUNITY CAN UNILATERALLY LOWER THE QUOTA AMOUNTS WRITTEN INTO THE SUGAR PROTOCOL AS THE COMMISSION HAS DONE (REF D). AMENDMENTS TO THE PROVISIONS OF THE PROTOCOL CAN ONLY TAKE PLACE, THE LAWYERS SAY, THROUGH A RATIFICATION PROCESS BY ALL SIGNATORIES.

7. NOTWITHSTANDING THIS LEGAL ADVICE, ACCORDING TO OUR COMMISSION CONTACTS IN THE SUGAR DIVISION, THE COUNCIL

AGREES WITH THE COMMISSION THAT IN NONE OF THE COUNTRY NON-DELIVERIES IN QUESTION WAS THERE FORCE MAJEURE AND THAT THESE INDIVIDUAL COUNTRIES SHOULD HAVE THEIR QUOTAS REDUCED BY THEIR RESPECTIVE SHORTFALLS. ARTICLE VII:3 OF THE PROTOCOL STATES "IF, DURING ANY DELIVERY PERIOD, AN ACP SUGAR-EXPORTING COUNTRY FAILS TO DELIVER ITS AGREED QUANTITY IN FULL FOR REASONS OTHER THAN FORCE MAJEURE, THAT QUANTITY SHALL BE REDUCED IN RESPECT OF EACH SUBSEQUENT DELIVERY PERIOD BY THE UNDELIVERED QUANTITY". BOTH THE COMMISSION AND COUNCIL RECOGNIZE THAT SOME ADMINISTRATIVE MACHINERY SHOULD BE ESTABLISHED TO DETERMINE QUOTA REDUCTIONS, IF NOT BY UNILATERAL EC ACTION, THEN CERTAINLY BY SOME LESS CUMBERSOME METHOD THAN A RATIFICATION PROCESS INVOLVING OVER 50 SIGNATORIES.

8. TO AVOID THE LEGAL HASSLE IN THE MEANTIME, WHAT THE EC PLANS TO DO ACCORDING TO OUR SOURCES (AND THIS IS HOW THE POLITICAL GESTURE ANNOUNCED IN FIJI SHOULD BE INTERPRETED)
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IS TO ISSUE A COUNCIL REGULATION APPLYING LEVY-FREE TREATMENT FOR THE AMOUNT OF THE SHORTFALL FROM THOSE COUNTRIES WHOSE QUOTAS WERE REDUCED BUT THE EC WILL NOT PER SE REINSTATE THOSE QUOTAS WITHIN THE PROTOCOL. FOR EXAMPLE, KENYA'S QUOTA OF 5,000 M.T. WAS REDUCED TO 0 BY THE COMMISSION LAST FALL. NEVERTHELESS, ACCORDING TO THE COMMISSION, KENYA WILL BE ABLE TO SEND 5,000 M.T. LEVY-FREE UNDER THE NEW COUNCIL REGULATION THIS YEAR, EVEN THOUGH KENYA'S QUOTA UNDER THE PROTOCOL IS STILL 0. ALL OF THIS WOULD APPEAR TO MEAN THAT THE ACP SHORTFALL AMOUNTS WILL BE ALLOWED TO BENEFIT FROM THE PROTOCOL LEVY-FREE GUARANTEED PRICE COMMITMENTS FOR THIS YEAR BUT NOT THEREAFTER UNLESS ANOTHER COUNCIL REGULATION IS ISSUED.

9. OUR SOURCES ADMIT THAT ACP REPRESENTATIVES PROBABLY THINK AS A RESULT OF EC STATEMENTS AT FIJI THAT THE QUOTA AMOUNTS REDUCED BY THE COMMISSION WILL BE REINSTATED WITHIN THE PROTOCOL, AND PROBABLY DO NOT APPRECIATE THE FINE LINES THE COMMUNITY IS DRAWING ON THIS MATTER.HINTON

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